

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

FILED  
U.S. DISTRICT COURT  
WAYCROSS DIV.

2007 APR 12 PM 2:49

CLERK *McDaniel*  
SO. DIST. OF GA.

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

CASE NO. CV507-7

FORTY-FOUR MISCELLANEOUS )  
FIREARMS, )

Defendants. )

O R D E R

Before the Court is Mark E. McDaniel's Motion to Dismiss With Prejudice. (Doc. 8.) Mr. McDaniel, the claimant in this matter, maintains that the Government did not serve its Verified Complaint for Forfeiture In Rem within ninety (90) days as required by 18 U.S.C. § 983.

The above-captioned matter involves firearms that were seized from a gun shop owned and operated by Mr. McDaniel in Waycross, Georgia. Mr. McDaniel filed a claim with the Bureau of Alcohol, Tobacco, Firearms and Explosives on October 16, 2006.<sup>1</sup> Pursuant to 18 U.S.C. § 983(a)(3)(A), the Government was required to file a verified complaint for the forfeiture of the firearms within 90 days. The 90th day was Sunday, January 14,


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<sup>1</sup> Mr. McDaniel's motion states that his claim was filed on October 17, 2006, rather than October 16, 2006, as indicated by the Government. This discrepancy has no effect on the timeliness of the Government's Complaint.

2007. The 91st day, Monday, January 15, 2007, was the Birthday of Martin Luther King, Jr., a federal holiday. The Government filed its Verified Complaint on the 92nd day, Tuesday, January 16, 2007.

When the last day of a filing period falls on a Saturday, Sunday, or legal holiday, that day is not counted towards the computation of a filing deadline. Fed. R. Civ. P. 6(a). Because the 90th and 91st days fell on a Sunday and a holiday, the Government was not required to file the Verified Complaint until Tuesday, January 16, 2007. Accordingly, the Complaint was timely filed and the Motion to Dismiss is **DENIED**.

SO ORDERED this 12<sup>th</sup> day of April, 2007.

  
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WILLIAM T. MOORE, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA